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| 09/348,500 | 07/07/1999 | MASAHIKE HIRASAWA | 35.C13649 | 5327 |
| 5514 | 7590 | 12/19/2003 | EXAMINER | |
| FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112 | | | GENCO, BRIAN C | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|---------------------------|--------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/348,500 | HIRASAWA, MASAHIKE |
| | Examiner Brian C Genco | Art Unit 2615 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 29 September 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-10, 16, 18, 20-29, 35, 37, 39-48, 54, 56, 58-67, 73, 75 and 77-83 is/are pending in the application.

4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-10, 16, 18, 20-29, 35, 37, 39-48, 54, 56, 58-67, 73, 75 and 77-83 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7 and 8.

4) Interview Summary (PTO-413) Paper No(s). _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

Continuation of Disposition of Claims: Claims withdrawn from consideration are 11-15,17,19,30-34,36,38,49-53,55,57,68-72,74 and 76.

Election/Restrictions

Applicant's election with traverse of Group I Species I drawn to claims 1-10, 16, 18, 20-29, 35, 37, 39-48, 54, 56, 58-67, 73, 75, and 77-83 in Paper No. 10 is acknowledged. The traversal is on the ground(s) that Groups I and II are classified in the same Class and significant Subclass (207). This is not found persuasive because subclasses 207.11 and 207.2 in class 348 are two separate and distinct subclasses. The operations by which a camera is controlled according to each of the two groups are clearly distinct and require separate and distinct search strategies and prior art considerations.

The requirement is still deemed proper and is therefore made FINAL.

Drawings

Figures 1-19, and 33 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Examiner's Notes

Applicant is advised that should claims 1-10, 16, and 18 be found allowable, claims 39-48, 54, and 56 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP

§ 706.03(k). Examiner notes that the apparatus claims and the system claims do not seem to be patentably distinct from each other.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 16, 20-24, 35, 39-43, 54, 58-62, 73, 77-79 are rejected under 35

U.S.C. 102(e) as being anticipated by (USPN 6,005,613 to Endsley et al).

In regards to claim 1 Endsley et al., herein Endsley, discloses the claimed transmission control means through a camera attached to a computer via a USB interface, wherein the computer sends control data to the camera (column 5, lines 3-14; Fig. 1). Examiner notes that the claimed storage means is inherent in storing all of the different control variables shown in Table 1 on column 5. Further the connection detecting means is inherent with the USB interface.

In regards to claim 2 note Figs. 3A and 3B, wherein in the bottom of Fig. 3B the Hue is adjusted, in the top of Fig. 3B the stop and shutter speed are adjusted, namely the exposure settings, and in the top of Fig. 3B the color density is adjusted though the selection of a color or gray scale picture as well as resolution setting.

In regards to claim 3 note column 3, line 66 – column 4, line 47, wherein a USB communication protocol is described. Note that the reception state of the image pickup

apparatus is inherent in the description of both the SYNC field and the Handshake Packet, namely the communication cannot occur unless the bit recovery clocks are synchronized, wherein upon synchronization the camera is ready to receive data. Further, in any handshaking operation of data transfer it is necessary to have feedback from the apparatus being communicated with indicating it is ready for more data, in this case indicating transfer of data was successful, and thereby indicating a state in which more data can be sent.

In regards to claim 4 Endsley discloses camera registers 72 for storing camera configurations from the computer (column 5, lines 3-13).

In regards to claim 5 see Figs. 3A and 3B.

In regards to claim 16 Examiner notes that the interface is a USB wherein a USB is a general digital interface.

In regards to claim 77 see Examiners notes on the rejection of claims 1 and 3.

In regards to claims 78 see Examiners notes on the rejection of claim 2.

In regards to claims 79 see Examiners notes on the rejection of claim 3.

Examiner notes that claim groups 20-24, and 35; 39-43, and 54; 58-62, and 73 are substantial duplicates of claims 1-5, and 16 respectively wherein the method, system, and storage medium storing a control program are all equally met by the rejections presented above. As such, these claim groups are herein rejected using the same rejections as presented for claims 1-5, and 16.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 18, 37, 56, and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over (USPN 6,005,613 to Endsley et al.).

In regards to claim 18 Examiner notes that an IEEE 1394 interface bus is very similar to a USB interface wherein it would have been obvious to one of ordinary skill in the art at the time of the invention to have used a IEEE 1394 bus interface in order to enable higher data transfer rates.

Examiner notes that claims 37, 56, and 75 are substantial duplicates of claim 18 wherein the method, system, and storage medium storing a control program are all equally met by the rejections presented above. As such, these claim groups are herein rejected using the same rejections as presented for claim 18.

Claims 1, 3, 16, 18, 20, 22, 35, 37, 39, 41, 54, 56, 58, 60, 73, and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US PG-PUB 2001/0001563 to Tomaszewski).

In regards to claim 1 Tomaszewski discloses an image pickup control apparatus for controlling an image pickup apparatus via a data communications interface unit, comprising:

storage means for storing control data for controlling the image pickup apparatus (e.g., paragraph 0021, wherein the storage means is implied in the host computer system 100 in order to have a set of known commands to issue to the digital camera 104);

connection detecting means for detecting a connection to the image pickup apparatus via the data communications interface unit (e.g., paragraph 0021 and 0023); and

transmission control means for transmitting the control data stored in said storage means to the image pickup apparatus when said connection detecting means detects a connection to the image pickup apparatus (e.g., paragraphs 0023, 0028-0030, 0034, and 0037).

Examiner notes that Tomaszewski's disclosure is from the perspective of the camera, however, it is implied with the corresponding USB interface within the computer to implement the connection detecting means and transmission control means in the host computer as claimed and in correspondence with the camera so as to enable proper communication between the camera and computer. Therefore it would have been obvious to one of ordinary skill in the art to have had a connection detecting means and a transmission control means in order to enable proper communication between the camera and computer.

In regards to claim 3 Examine notes that it is further implied in the control and communications to have a reception detecting means to ensure that the camera is ready to communicate with the computer. This is also disclosed in the teaching of paragraph 0021

wherein control of the camera is given to the computer wherein an implied step is to notify the computer that the camera is ready to receive instructions. Therefore it would have been obvious to have had a reception detecting means so as to ensure the camera was ready to receive commands from the computer and enable a tethered connection between the computer and camera.

In regards to claim 16 Examiner notes that the interface is a USB wherein a USB is a general digital interface.

In regards to claim 18 Examiner notes that an IEEE 1394 interface bus is very similar to a USB interface wherein it would have been obvious to one of ordinary skill in the art at the time of the invention to have used a IEEE 1394 bus interface in order to enable higher data transfer rates.

Examiner notes that claim groups 20, 22, 35, and 37; 39, 41, 54, and 56; and 58, 60, 73, and 75 are substantial duplicates of claims 1, 3, 16, and 18 respectively wherein the method, system, and storage medium storing a control program are all equally met by the rejections presented above. As such, these claim groups are herein rejected using the same rejections as presented for claims 1, 3, 16, and 18.

Claims 2, 4, 5, 21, 23, 24, 40, 42, 43, 59, 61, and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US PG-PUB 2001/0001563 to Tomaszewski) in view of (USPN 6,005,613 to Endsley et al).

In regards to claim 2 Tomaszewski does not explicitly disclose what instructions are sent to the camera. Endsley discloses a camera connected to a computer through a USB interface

wherein the camera sends control data to the camera (e.g., column 5, lines 3-13). Note Figs. 3A and 3B, wherein in the bottom of Fig. 3B the Hue is adjusted, in the top of Fig. 3B the stop and shutter speed are adjusted, namely the exposure settings, and in the top of Fig. 3B the color density is adjusted through the selection of a color or gray scale picture as well as resolution setting. Therefore it would have been obvious to one of ordinary skill in the art to have used Endsley's user interface and control setting so as to enable a user to specify a plurality of control variables of the camera from the computer.

In regards to claim 4 Endsley discloses camera registers 72 for storing camera configurations from the computer (column 5, lines 3-13).

In regards to claim 5 see Figs. 3A and 3B.

Examiner notes that claim groups 21, 23, and 24; 40, 42, and 43; and 59, 61, and 62 are substantial duplicates of claims 2, 4, and 5 respectively wherein the method, system, and storage medium storing a control program are all equally met by the rejections presented above. As such, these claim groups are herein rejected using the same rejections as presented for claims 2, 4, and 5.

Claims 6-10, 25-29, 44-48, 63-67, and 80-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over (USPN 6,005,613 to Endsley et al) in view of (USPN 5,184,169 to Nishitani).

In regards to claim 6 Endsley does not disclose nor preclude the photographing condition is based upon an environment and photographing state of a subject. Nishitani discloses exposure control cards 12 for automatically setting the exposure of the camera to correspond with an environment and photographing state of a subject depicted on the card (column 3, lines 1-14;

column 4, lines 1-11). Therefore it would have been obvious to one of ordinary skill in the art to have enabled the selection of pre-stored exposure settings for an environment and photographing state of a subject as disclosed by Nishitani in order to automatically set the camera for various exposure events. Note that Nishitani discloses events such as landscape, portrait, wedding, sports, etc. wherein it would have been well within the skill of one of ordinary skill in the art to have also included evening photographing, close-up photographing, ski ground photographing, night scene photographing, etc. if necessary. Examiner notes that Nishitani discloses that the pre-stored exposure settings be stored in cards, however it would have been obvious to one of ordinary skill in the art at the time of the invention to have had exposure settings pre-stored in the computer as suggested by Endsley in order to generate multiple camera configurations in an automatic manner as suggested by Nishitani.

In regards to claim 7 Examiner notes that Nishitani discloses a model image printed on the card so as to enable a user to easily identify which exposure condition is on that card (column 3, lines 1-14). Therefore it would have been obvious to one of ordinary skill in the art to have displayed a model image of the photographing condition in the guide means in order to enable a user to identify which exposure condition is being set.

In regards to claim 8 see Examiners notes on the rejection of claim 6. Note that it would have been obvious to one of ordinary skill in the art at the time of the invention to have changed the control settings of the camera according to the model image so as to enable automatic change of exposure settings corresponding to depicted events.

In regards to claim 9 see Examiners notes on the rejection of claims 6 and 8.

In regards to claim 10 note that it is implied in the disclosure of Endsley that the registers can be re-written so as to enable a wide variety of combinations for camera settings.

In regards to claim 80 see Examiners notes on the rejection of claim 6.

In regards to claims 81-83 see Examiners notes on the rejection of claims 6-10.

Examiner notes that claim groups 25-29; 44-48; and 63-67 are substantial duplicates of claims 6-10 respectively wherein the method, system, and storage medium storing a control program are all equally met by the rejections presented above. As such, these claim groups are herein rejected using the same rejections as presented for claims 6-10.

Claims 6-10, 25-29, 44-48, 63-67, and 80-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US PG-PUB 2001/0001563 to Tomaszewski) in view of (USPN 6,005,613 to Endsley et al) in view of (USPN 5,184,169 to Nishitani).

In regards to claim 6 neither Tomaszewski nor Endsley disclose nor preclude the photographing condition is based upon an environment and photographing state of a subject. Nishitani discloses exposure control cards 12 for automatically setting the exposure of the camera to correspond with an environment and photographing state of a subject depicted on the card (column 3, lines 1-14; column 4, lines 1-11). Therefore it would have been obvious to one of ordinary skill in the art to have enabled the selection of pre-stored exposure settings for an environment and photographing state of a subject as disclosed by Nishitani in order to automatically set the camera for various exposure events. Note that Nishitani discloses events such as landscape, portrait, wedding, sports, etc. wherein it would have been well within the skill of one of ordinary skill in the art to have also included evening photographing, close-up

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photographing, ski ground photographing, night scene photographing, etc. if necessary.

Examiner notes that Nishitani discloses that the pre-stored exposure settings be stored in cards, however it would have been obvious to one of ordinary skill in the art at the time of the invention to have had exposure settings pre-stored in the computer as suggested by Endsley in order to generate multiple camera configurations in an automatic manner as suggested by Nishitani.

In regards to claim 7 Examiner notes that Nishitani discloses a model image printed on the card so as to enable a user to easily identify which exposure condition is on that card (column 3, lines 1-14). Therefore it would have been obvious to one of ordinary skill in the art to have displayed a model image of the photographing condition in the guide means in order to enable a user to identify which exposure condition is being set.

In regards to claim 8 see Examiners notes on the rejection of claim 6. Note that it would have been obvious to one of ordinary skill in the art at the time of the invention to have changed the control settings of the camera according to the model image so as to enable automatic change of exposure settings corresponding to depicted events.

In regards to claim 9 see Examiners notes on the rejection of claims 6 and 8.

In regards to claim 10 note that it is implied in the disclosure of Endsley that the registers can be re-written so as to enable a wide variety of combinations for camera settings.

In regards to claim 80 see Examiners notes on the rejection of claim 6.

In regards to claims 81-83 see Examiners notes on the rejection of claims 6-10.

Examiner notes that claim groups 25-29; 44-48; and 63-67 are substantial duplicates of claims 6-10 respectively wherein the method, system, and storage medium storing a control

program are all equally met by the rejections presented above. As such, these claim groups are herein rejected using the same rejections as presented for claims 6-10.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian C. Genco who can be reached by phone at 703-305-7881 or by fax at 703-746-8325. The examiner can normally be reached on Monday thru Thursday 7:30am to 4:30 pm and every other Friday 7:30am to 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on 703-308-9644. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is 703-308-4357.

Brian C Genco
Examiner
Art Unit 2615

December 15, 2003



ANDREW CHRISTENSEN
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